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Date of Deposit: March 31, 2004

PATENT  
Attorney Docket No.: 15270J-004727US

I hereby certify that this is being deposited with the United States Postal Service "Express Mail Post Office to Address" service under 37 CFR 1.10 on the date indicated above and is addressed to:

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By: 

In re application of:

SCHENK, Dale B.

Application No.: To be assigned

Filed: Herewith

For: PREVENTION AND TREATMENT  
OF AMYLOIDOGENIC DISEASE

Customer No.: 20350

Examiner: Unassigned

Technology Center/Art Unit: Unassigned

DECLARATION UNDER MPEP § 2406.02

**Mail Stop Patent Application**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned, Rosemarie L. Celli, attorney of record authorized to act on behalf of the Applicant and Assignee in matters relating to the subject Patent Application, does hereby declare and state that:

1. The cell line designated RB44-10D5.19.21, producing the antibody 10D5 described at, e.g., paragraph [0175], Table 6, of the above-captioned application, was deposited at the American Type Culture Collection on April 8, 2003 and given accession number PTA-

Boulevard, Manassas, VA 20110-2209. The deposit was made pursuant to the provisions of the Budapest Treaty. A copy of the ATCC receipt is attached as Exhibit 1.

2. The antibody 10D5, produced by the cell line identified in paragraph 1, is also described at, *e.g.*, p. 58, lines 6 of U.S. Application No. 09/201,430, filed November 30, 1998; and at p. 32, line 23 of U.S. Application No. 60/080,970, filed April 7, 1998. The above-captioned application is a continuation of U.S. Application No. 09/201,430, filed November 30, 1998, which claims the benefit under 35 U.S.C. 119(e) of U.S. Application No. 60/080,970, filed April 7, 1998, and U.S. Application No. 60/067,740, filed December 2, 1997.

3. The cell line designated RB96 3D6.32.2.4, producing the antibody 3D6 described at, *e.g.*, lines 7 and 8 of paragraph [0212] of the above-captioned application, was deposited at the American Type Culture Collection on April 8, 2003 and given accession number PTA-5130. The address of the American Type Culture Collection (ATCC) is 10801 University Boulevard, Manassas, VA 20110-2209. The deposit was made pursuant to the provisions of the Budapest Treaty. A copy of the ATCC receipt is attached as Exhibit 1.

4. The antibody 3D6, produced by the cell line identified in paragraph 3, is also described at, *e.g.*, p. 77, lines 3-4 of U.S. Application No. 09/201,430, filed November 30, 1998; and at p. 27, lines 10-11 of U.S. Application No. 60/080,970, filed April 7, 1998. The above-captioned application is a continuation of U.S. Application No. 09/201,430; filed November 30, 1998, which claims the benefit under 35 U.S.C. 119(e) of U.S. Application No. 60/080,970, filed April 7, 1998, and U.S. Application No. 60/067,740, filed December 2, 1997.

5. The cell lines identified in paragraphs 1 and 3 above will be maintained at the ATCC and replaced in the event of mutation, nonviability or destruction for a period of at least five (5) years after the most recent request for release of a sample was received by ATCC,

for a period of at least thirty (30) years after the date of the deposit, or during the enforceable life of the related patent, whichever period is longest.

6. All restrictions, on the availability to the public of the cell lines identified in paragraphs 1 and 3 above will be irrevocably removed upon the issuance of a patent from the above-captioned application.

7. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: March 31, 2004 Rosemarie L. Celli  
Rosemarie L. Celli, Reg. No. 42,397

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60168346 v1

# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

#### RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.

To: (Name and Address of Depositor or Attorney)

Elan Pharmaceuticals, Inc.  
Attn: Nina Ashton  
800 Gateway Boulevard  
South San Francisco, CA 94080

Deposited on Behalf of: Elan Pharmaceuticals, Inc.

#### Identification Reference by Depositor:

Murine Hybridoma Cell Line: RB44-10D5.19.21  
Murine Hybridoma Cell Line: RB96 3D6.32.2.4

#### Patent Deposit Designation

PTA-5129  
PTA-5130

The deposits were accompanied by:    a scientific description    a proposed taxonomic description indicated above. The deposits were received April 8, 2003 by this International Depository Authority and have been accepted.

AT YOUR REQUEST:   X   We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested May 5, 2003. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris  
Marie Harris, Patent Specialist, ATCC Patent Depository

Date: June 2, 2003

cc: Joe Liebeschuetz

Ref: Docket or Case No.: 15270J-004720US

Exhibit 1

DECLARATION AND POWER OF ATTORNEY

**COPY**

I, a below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **PREVENTION AND TREATMENT OF MYELOIDOGENTIC DISEASE** the specification of which \_\_\_\_ is attached hereto or \_\_\_\_ was filed on November 30, 1998 as application No. 09/201,430 and was amended on \_\_\_\_\_ (if applicable).

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56. I claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

**Prior Foreign Application(s)**

| Country | Application No. | Date of Filing | Priority Claimed Under<br>35 USC 119 |
|---------|-----------------|----------------|--------------------------------------|
|         |                 |                |                                      |

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

| Application No. | Filing Date |
|-----------------|-------------|
| 60/067,740      | 12/02/97    |
| 60/080,970      | 04/07/98    |

I claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

| Application No. | Date of Filing | Status |
|-----------------|----------------|--------|
|                 |                |        |

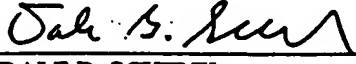
**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Joe Liebeschuetz, Reg. No. 37,505  
William M. Smith, Reg. No. 30,223  
James M. Heslin, Reg. No. 29,541

|  |  |
|--|--|
| Send Correspondence to:<br>Joe Liebeschuetz<br>TOWNSEND and TOWNSEND and CREW LLP<br>Two Embarcadero Center, 8 <sup>th</sup> Floor<br>San Francisco, California 94111-3834 | Direct Telephone Calls to:<br>(Name, Reg. No., Telephone No.)<br>Name: Joe Liebeschuetz<br>Reg. No.: 37,505<br>Telephone: 650-326-2400 |
|--|--|

|                          |   |                                     |                                      |                              |
|--------------------------|---|-------------------------------------|--------------------------------------|------------------------------|
| Full Name of Inventor 1: | Last Name:<br><b>SCHENK</b>                         | First Name:<br><b>DALE</b>          | Middle Name or Initial:<br><b>B.</b> |                              |
| Residence & Citizenship: | City:<br><b>Burlingame</b>                          | State/Foreign Country:<br><b>US</b> | Country of Citizenship:<br><b>US</b> |                              |
| Post Office Address:     | Post Office Address:<br><b>1542 Los Altos Drive</b> | City:<br><b>Burlingame</b>          | State/Country:<br><b>CA</b>          | Postal Code:<br><b>94010</b> |

further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

|   |                                      |                                      |
|---|--------------------------------------|--------------------------------------|
| Signature of Inventor 1<br><br><br>DALE B. SCHENK | Signature of Inventor 2<br><br>_____ | Signature of Inventor 3<br><br>_____ |
| Date <b>6/29/99</b>   | Date                                 | Date                                 |

PA 171356 v1

BEST AVAILABLE COPY